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Paul R. Katterle Legal Department ABB Inc. 29801 Euclid Avenue Wickliffe, OH 44092-2530			EXAMINER FISHER, MICHAEL J	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

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Application Number: 10/037,389
Filing Date: January 04, 2002
Appellant(s): SOUTHWORTH ET AL.

GROUP 3600

Paul R. Katterle (reg # 36,563)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/6/07 appealing from the Office action
mailed 9/6/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. Those rejections of claims 1-14,27-31 and 45-76.

These claims are deemed allowable as the prior art does not disclose the system as being used for a timer function. The limitations of "timer module" must be given greater weight in method claims than system claims. While the timer module is

inherently a computer (as it is shown to use computer programs), the limitations directed toward timer functions as included in the system claims are non-functional, descriptive data and as such, are given less weight while in the method claims, such limitations must be given greater weight as they are necessary to the method.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,411,943

Crawford

6-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 15-26 and 32-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PAT 6,411,943 to Crawford.

As to claim 15, Crawford discloses a program builder system maintained at a supplier's place of business (200, 210, 214 as best seen in fig 2), distributing software to a customer (fig 2), making available a model number data page to a customer (col 40, line 66-col 41, line 6), receiving a model number request from a customer (fig 8A), transmitting the program code to the customer (fig 14A).

Crawford does not, however, teach using the system for timer modules or specifically state that the customer's computer is at the place of business. Timer

modules are old and well known in the art being merely software. Therefore, it would have been obvious to one of ordinary skill in the art to use the system as disclosed by Crawford to sell timer-modules as timer-modules are software and Crawford discloses this as a good way to sell software (such as anti-virus software (200) and other software (212)) and it further would have been obvious for the customer's computer to be at the place of business as computers are well known to be useful for business applications.

As to claim 29, Crawford discloses sending the code via a network communication (fig 3).

As to claim 17, as the information is displayed on a computer, it would be electronically displayed.

As to claims 16,19, these are all well known aspects of A/D converters controlled by timer-modules, therefore, it would have been obvious to include them if the customer ordered them and further, to have them on one housing so as to keep the system less complicated.

As to claim 18, Crawford discloses an online service (col 14, lines 31-32) that would inherently include a webpage or pages.

As to claim 20, the model number would inherently designate an operating parameter as it only designates one model.

As to claim 21, the parameter reader unit would be the monitor of the computer that displays all information.

As to claim 22, it would have been obvious to display a reprogramming status if the computer is being reprogrammed.

As to claim 23, the program builder would inherently be able to parse out characters as it must read them in order to correlate with the proper model.

As to claim 24, Crawford discloses a plurality of different input windows (fig 8A).

As to claim 25, the customer chooses, or 'builds' the model required and the system then builds it, thereby meeting the limitations as claimed.

As to claim 26, it is old and well known for timer modules to have subfunctions, therefore, it would have been obvious to include a subfunction ordering table to allow the customer to purchase the exact timer module required.

As to claims 32,34, these are all well known aspects of A/D converters controlled by timer-modules, therefore, it would have been obvious to include them if the customer ordered them.

As to claim 33, it would be inherent that the page includes product information else the customers could not know what they are buying.

As to claim 35, the location of the system would not make it patentably distinct.

As to claim 36, as best understood, it would have been obvious to one of ordinary skill in the art to include a plurality of time delays if the customer ordered them.

As to claim 37, it would have been obvious to one of ordinary skill in the art to include such features if the customer ordered them.

As to claims 39-44, Crawford teaches updating software (214 in fig 2), thereby meeting the limitations as claimed.

(10) Response to Argument

Arguments in relation to method claims 1, 8, 27, 49, 57 and 68 are moot as these grounds of rejection have been withdrawn. As these rejections were withdrawn after the filing of the Appeal Brief, the generic arguments relating to all independent claims starting on page 6 of the brief and ending on page 8 of the brief will be considered.

The Crawford patent relates to provide specific software across a network. Timer modules as described, are merely computers with timer software installed. As the claims specifically mention "programmable timer modules", this is inherent. As there is no actual timer function described (merely that the devices are "programmable timer modules") any software downloadable device meets the limitations as claimed. The timer programming is that which is "merely software". What makes a computer into a "timer module", therefore, is "merely software".

As to arguments in relation to claim 15, the system does take model number data page as it is shown to build a "virtual computer" that is used in fig 8A, this would inherently require that the computer model and number is known in order to replicate the computer or else software designed to run on the virtual computer could be incompatible with the customer's computer. Therefore, Crawford does teach a programmable timer module (computer), a model number data page (inherently in that it creates a virtual replica of the computer) and a program builder system (providing the software requested).

As to arguments in relation to claim 32, the examiner agrees that the prior art does not teach a power supply for converting line voltage, however, as discussed, these are old and well known and therefore, it would be obvious to supply them if the

customer wanted them. As the instant invention is not drawn toward such converters (and indeed, does not describe them in great detail), this would not make the instant invention patentably distinct. The program builder has been previously discussed.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

MF 

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